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ABSTRACT

The purpose of Part 151 of the regulations of the New York Commissioner of Education is to carry out the legislative intent to provide financial assistance to school districts. This assistance is provided for the operation of experimental prekindergarten programs for children with educational needs associated with poverty. Section 2 of Part 151 defines the critical terms used in the regulations. Section 3 considers program variations, including activities in conjunction with a Community Schools Program, home-based programs, and joint federal Chapter 1 and state experimental progams. Section 4 outlines the procedure whereby a school district may apply for a grant. Section 5 discusses the approval of such applications by the Commissioner of Education and subsequent funding. Section 6 gives requirements for a child's participation in a prekindergarten program. Sections 7 through 10 list the requirements for prekindergarten programs relating to physical facilities, safety, and sanitation; provisions for children's health and nutrition; and staff qualifications. Section 11 describes program continuum requirements, including developmentally based curricula, minimum and maximum class sizes, and learning centers. Section 12 discusses limits on classroom discipline. Section 13 considers parent involvement through advisory committees and other activities. (BC)

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AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

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PART 151

APPORTIONMENT FOR PREKINDERGARTEN PROGRAMS

PS 019728

Section 151.1 Scope of Part. The purpose of this Part is to carry out the legislative intent to provide financial assistance to school districts for operating experimental prekindergarten programs for prekindergarten children with educational needs associated with poverty. This Part also sets forth procedures and requirements for applying for a grant to operate such programs.

151.2 Definitions. As used in this Part:

(a) *Developmentally appropriate* means early childhood activities that demonstrate awareness of and sensitivity to the stages of each child's intellectual, physical, cultural, emotional, and social development.

(b) *Economically disadvantaged* child means a child whose family is eligible for some form of assistance such as Aid to Families of Dependent Children, free or reduced price school lunch, food stamps, Medicaid, unemployment compensation, or disability compensation.

(c) *Learning center* means a designated area in the prekindergarten classroom designed for specific kinds of activities.

(d) *Local early childhood community coordination committee* means a group of individuals including parents, representatives from other agencies which serve the families of young children, policymakers, and personnel from local colleges and universities.

(e) *Parent* means a parent, a legal guardian, or another person in parental relation to a prekindergarten child.

(f) *Parent advisory committee* means a group of parents, representative of the population served that meets at least four times a year with the prekindergarten staff to discuss concerns and issues pertaining to the education of prekindergarten children enrolled in the program and to make recommendations for improving the quality of life for these families.

(g) *Prekindergarten children* means children who will be four years of age on or before December 1st of the current school year, or who will otherwise be first eligible to enter public school kindergarten commencing with the following school year, or who attend a program for which an application to serve any three- or four-year-olds has been approved. Applications for funding to serve any three- or four-year-olds may be submitted by districts which will be reviewed for approval based upon the demonstrated ability of the district to serve interested and eligible four-year-olds.

(h) *Prekindergarten program* means an early childhood program which provides activities for prekindergarten children for not less than 12 hours per week and not less than two and a half hours per day that meets the developmental needs of the children.

(i) *School district* shall mean either a school district or a Board of Cooperative Educational Services (BOCES) acting on behalf of more than one school district.

(j) *School year* means the period commencing on the 1st day of July in each year and ending on the 30th day of June next following.

(k) *Base year* means the school year prior to the school year for which a grant is paid pursuant to this Part.

(l) *Educationally deprived child* means a prekindergarten child whose educational attainment on a screening device approved by the department is below the level appropriate to such child's age.

151.3 Program Variations.

(a) Notwithstanding any provisions of this Part to the contrary, the commissioner may find a school district eligi-

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ble for funds appropriated by the legislature for the operation of the following program variations:

(1) Programs which provide activities for prekindergarten children in conjunction with a grant to a Community Schools Program .

(2) A home-based program which serves both children and parents in the home through regular visits by a trained staff member, provided that such program was funded during the 1988-89 school year. The requirements set forth in section 151.4(7) and (11), 151.7, 151.8, and 151.9 of this Part, shall not apply to such programs.

(3) Joint Federal Chapter 1 and State experimental prekindergarten programs in school districts eligible for a concentration grant in excess of $200,000 in the base year pursuant to section 1006 of Chapter 1 of Title 1 of the Elementary and Secondary Education Act, as amended, 20 U.S.C. 2712 (title 20, Education, sections 1241 to 3400, West Publishing Co., P.O. Box 64526, St. Paul, MN 55164; available at Office of School Improvement Grants Management and Compliance, Education Building Annex, Room 469, State Education Department, Albany, NY 12234). To be approved for funding, such a district shall submit an application which demonstrates that:

(i) The program will serve educationally deprived children, and no other criteria except age and educational need will be used to select children for participation in the joint program;

(ii) All program requirements of this Part, except those relating to the selection of prekindergarten children to participate in the joint program on the basis of economic disadvantage, will be met;

(iii) Priority in the selection of the schools within the district for the establishment of new prekindergarten programs or the expansion of prekindergarten programs funded in the base year will be given to schools with the highest concentration of children from low-income families, as determined from their ranking for purposes of Chapter 1 pursuant to 34 CFR 200.30 (Code of Federal Regulations, 1989 Edition, Superintendent of Public Documents, U.S. Government Printing Office, Washington, D.C. 20402: 1984; available at Office of School Improvement Grants Management and Compliance, Education Building Annex, Room 469, State Education Department, Albany, NY 12234);

(iv) Prekindergarten children in the area served by schools selected as the site of a prekindergarten program approved for funding pursuant to this paragraph shall be selected for participation in order of greatest educational need; and

(v) An exclusion has been granted for the joint program from the comparability and supplement, not supplant requirements under Chapter 1 pursuant to 34 CFR 200.45 (Code of Federal Regulations, 1989 Edition, Superintendent of Public Documents, U.S. Government Printing Office, Washington, D.C. 20402: 1984; available at Office of School Improvement Grants Management and Compliance, Education Building Annex, Room 469, State Education Department, Albany, NY 12234).

(b) Notwithstanding any other provision of this Part, upon application by a school district, the commissioner may grant a variance from the requirements of this Part pertaining to the age of children served, limitations on program hours, the number of days per week that services are provided, staffing patterns, or the eligibility of home-based programs upon findings by the commissioner that:

(1) the granting of the variance is educationally justified; and

(2) the granting of the variance is consistent with the purposes of this Part.

151.4 District Application and Reports.

(a) Each school district applying for a grant under this Part shall submit a formal application in a format and on forms provided by the department by the date prescribed by the commissioner.

(b) The application shall set forth the following information with respect to each program for which a grant is requested:

(1) The number of prekindergarten children to be served by each session of the program and the number of such children who are economically disadvantaged.

(2) A general description of the families of prekindergarten children in the district, their income level, culture and linguistic background, housing environment, and other indicators of socioeconomic status.

(3) A description of services available within the community to meet the needs of eligible families.

(4) A description of other early childhood programs that serve prekindergarten children in the community.

(5) A description of the staff development plan.

(6) A description of the plan to recruit and select four year olds for the prekindergarten program.

(7) A description of the indoor and outdoor facilities to be used, whether district owned, rented, or leased.

(8) A description of materials, and equipment to be used for the prekindergarten program.

(9) A description of the space to be used for parent activities.

(10) A description of the plan and rationale for all transportation to be provided, if any, which transportation shall be consistent with the requirements of all applicable statutes, the commissioner's regulations, and school district policy.

(11) A description of a plan to provide meals to children who will participate in the program.

(12) A description of the daily activities in which the children are involved.

(13) The philosophy and goals of the district's prekindergarten program.

(14) A description of services to be implemented to address the needs of children and families, which shall include but not be limited to the following:

(i) social services;

(ii) health services;

(iii) nutrition;

(iv) parent involvement;

(v) continuity of program and services to kindergarten through third grade; and

(vi) coordination with other early childhood and community agencies.

(15) A description of a plan to ensure parent involvement.

(16) A description of the assessment process to be used to evaluate the accomplishment of the goals of the prekindergarten program.

(17) Documentation of the qualifications of the professional, ancillary and consultative staff, whether employed on a full- or part-time basis, which shall include but shall not be limited to the following:

(i) for consultants only, a copy of a resume;

(ii) for professional staff, a copy of any teaching or administrative licenses or certificates held;

(iii) title of position;

(iv) name of current supervisor; and

(v) percentage of work hours assigned to the prekindergarten program.

(18) A description of the proposed budget for the program, indicating in detail the manner in which funds are expected to be received and disbursed, including all funds used in connection with the program, whether appropriated by the State Legislature or otherwise appropriated or provided by a local government, a public agency, private persons or organizations, or the school district itself. The proposed budget shall be developed on the basis that costs will be shared by the State and the local school district, with the methodology to determine the State share to be established annually by the commissioner with the approval of the Director of the Budget.

(19) A description of the district's needs assessment and the rationale for opening and/or continuing the district's prekindergarten program.

(c) *Evaluation Report of Program.* A written report of the results of the evaluation of the accomplished goals of the prekindergarten program shall be submitted to the department within 30 days after the program ends in the school year for which funds are sought.

151.5 Approval of Application.

(a) Within a reasonable time after the receipt of a district's application, the commissioner shall approve or disapprove such application. In making such determination, the commissioner may take into account all aspects of the district's application and the proposed program including, but not limited to, satisfactory evidence of the following:

(1) that at least 80 percent of the prekindergarten children served by the program are economically disadvantaged or that all interested and eligible economically disadvantaged children residing in the area served by the program will be served by the program;

(2) that the expected educational benefits are substantial in themselves;

(3) that the program is educationally sound, including evidence that the qualifications of the staff, facilities, equipment, supplies and the utilization thereof are sufficient to meet the stated goals;

(4) that sufficient provisions have been made for the administration, supervision, and evaluation of the program to meet the stated goals; and

(5) that the program is economically sound.

(b) *Allotment of Funds.* Upon approval of the application, the commissioner shall, in accordance with the State and local sharing methodology approved by the director of the budget, allocate to the school district so much of the funds appropriated by the legislature for purposes of this Part, as in the judgment of the commissioner will be used pursuant to said plan as the State share to substantially and reasonably carry out the purpose of this Part.

(c) Payment of all or part of a grant may be suspended or terminated by the commissioner if the district fails to comply with the provisions of law, with these regulations, with any other applicable law or regulations; or if the commissioner finds that the district program is not being implemented or administered in a satisfactory manner or is failing substantially to carry out the purposes of the grant.

151.6 Admission requirements for children.

(a) No child may participate in the prekindergarten program unless:

(1) A report of a medical examination of the child signed by a physician is submitted within 30 days of admission which states that the child is free from contagious or communicable disease.

(2) The child has been immunized to the extent appropriate to his/her age in accordance with section 2164 of the Public Health Law; or has been granted an exemption from such immunization.

151.7 Physical Facilities.

(a) Each prekindergarten classroom shall have at least a minimum of 30 square feet per child of usable activity space, excluding cloakrooms, bathrooms, and storage facilities.

(b) There shall be a minimum of 75 square feet of outdoor play area per child. Less than 75 square feet per child may be permitted upon submission of evidence of careful spacing of equipment and limitation of use to small groups at a time.

(c) There shall be no construction, addition, substantial modification, or change in occupancy of buildings or parts of buildings used, or to be used, in the operation of the prekindergarten program unless plans and designs of changes have been approved by the department.

(d) Each prekindergarten program shall provide adequate indoor and outdoor space to accommodate a variety of gross motor activities which encourage physical and social development of the children.

(e) The prekindergarten program shall be located on or close to the first floor of the building and be accessible for children with handicapping conditions who may participate in the program.

(f) A bathroom shall be part of, or immediately accessible to, the prekindergarten classroom. Such bathrooms must be barrier free.

(g) Appropriate space shall be designated for the use of parent activities.

151.8 Safety and Sanitation.

(a) All buildings, premises, equipment, and furnishings used for the prekindergarten program shall be safe and suitable for the comfort and care of the children and shall be provided and maintained in a good state of repair and sanitation, as determined by the commissioner.

(b) Suitable precautions shall be taken to eliminate all conditions which may contribute to or create a fire.

(c) Fire drills shall be held in accordance with the provisions of section 807 of the Education Law. A record of these drills shall be maintained.

151.9 Health and Nutrition.

(a) The prekindergarten program shall ensure the health and safety of the children participating in the program.

(b) The program shall be equipped with a first aid kit which shall be kept stocked for emergency treatment. First aid supplies must be kept in a clean container and in an area not accessible to children.

(c) A prekindergarten program shall have a written plan on file as prescribed by the commissioner which shall describe the medical and health policies and procedures which shall be explained to all staff and parents.

(d) A prekindergarten program shall provide at least one meal which will meet the nutritional needs of children and be provided in an environment prescribed by the commissioner.

(e) A prekindergarten program shall provide an environment which allows meals to be served regularly in the classroom, provides sufficient time for eating and ensures language communication between adults and children.

(f) Adults shall be seated with the children during mealtime.

(g) Menus shall be reviewed for nutritional content, variety, and quantity by a person qualified in nutrition.

(h) Menus shall be dated, distributed to parents, and posted in a place accessible to the parents and the department.

(i) The children shall be encouraged to eat the food served, but shall not be subjected to coercion or forced feeding.

151.10 Staff qualifications.

(a) A prekindergarten director/coordinator who spends more than 25 percent of his/her time supervising the prekindergarten program shall possess a teaching license or certificate valid for service in the early childhood grades and a certificate valid for administrative and supervisory services pursuant to Part 80 of this title.

(b) A prekindergarten teacher shall possess a teaching license or certificate valid for service in the early childhood grades pursuant to Part 80 of this title.

(c) A bilingual teacher shall be certified or licensed in the area of bilingual education or foreign language instruction as described in sections 80.9(a) and 80.16(d) of this Title.

(d) A prekindergarten teaching assistant shall have completed high school and six hours of college-level credit in a related field pursuant to Part 80 of this Title and have experience working with young children.

(e) A bilingual teacher assistant/aide shall be fluent in the language of the population served.

(f) A prekindergarten teacher aide shall have a high school diploma and an interest in working with four-year-olds.

(g) A parent involvement coordinator shall have completed high school and have experience and training working with parents.

(h) A social worker assigned to the prekindergarten program shall be a person appropriately certified or licensed as described in section 80.3(f) of this Title.

(i) A family worker assigned to the prekindergarten program shall be a community member, have completed high school, and have experience working with parents and/or community groups.

(j) Volunteers, including parents, shall demonstrate knowledge and interest in working with young children and their families.

151.11 Program Continuum.

(a) Developmentally based curricula appropriate for the ages and developmental stages of the children in the program shall be implemented.

(b) The program shall be varied in order to promote the physical and emotional well-being of the children and encourage the development of language, cognitive, and social skills.

(c) The minimum class size shall not be less than 16 children with one prekindergarten teacher and at least one teacher assistant/aide.

(d) The maximum class size shall not exceed 20 children with one prekindergarten teacher and at least two teacher assistants/aides.

(e) Upon application and documented educational and space justification to the commissioner, approval may be granted for variance from the class size specified in subdivisions (c) and (d) of this section.

(f) The program shall provide for experiences which are designed to influence a positive concept of self, recognizing the cultural and varied backgrounds, needs, interests and developmental levels of the children.

(g) The program shall be designed to be multicultural, and nonsexist.

(h) The organization of the prekindergarten classroom shall allow for a balance of active and quiet play, and individual and group activities.

(i) Learning centers shall be clearly identified in the classroom, and must include but are not limited to the following areas:

(1) creative art;

(2) music;

(3) science;

(4) sand and water;

(5) family center;

(6) manipulative;

(7) woodworking;

(8) block building; and

(9) library/language arts.

(j) The program shall provide a sufficient quantity and variety of materials and play equipment which are appropriate to the age of the children and their developmental levels and interest.

(k) The program shall provide an opportunity for children to engage in indoor or outdoor gross motor activities on a daily basis.

(l) The program shall meet the needs of limited English

proficient children by providing bilingual or English as a second language methodology as appropriate.

(m) *Staff Development and Evaluation.*

(i) An appropriate administrator shall evaluate the professional staff at least once a year;

(ii) A prekindergarten program shall provide staff development activities in accordance with the strengths and weaknesses of program staff.

(n) *Supervision.*

(1) For every prekindergarten program, there shall be a person as required in section 151.10(a) of this Part, designated as the director to supervise the program. Supervisory staffing must be sufficient to effectively operate the program.

(2) Direct supervision of classroom activities shall be provided by an appropriately certified prekindergarten teacher as required in section 151.10(b) of this Part.

(o) The prekindergarten director/coordinator shall initiate the formation of or participate on an existing Local Early Childhood Community Coordination Committee to promote collaboration of existing services.

151.12 Discipline.

(a) For the purpose of this section, corporal punishment means any act of physical force upon a child for the purpose of punishing that child, as defined in section 19.5 of this title.

(b) The program shall establish and inform all parents and staff of a written pupil discipline policy. Such policy shall include the following:

(1) any discipline used must relate to the child's misbehavior and be handled without prolonged delay on the part of the staff;

(2) room isolation is prohibited;

(3) corporal punishment is prohibited; and

(4) denial of food is prohibited.

151.13 Parent Involvement.

(a) A parent advisory committee, representative of the population served, shall be established in the beginning of the school year.

(1) The advisory committee shall meet no less than four times a year.

(2) A professional staff person shall be designated as a resource to the advisory committee and a liaison to the program.

(b) To meet the varied needs of the parents, parent activities must be scheduled and/or repeated at varying times, days and locations.

(1) Parent activities shall be planned using a personalized approach, with the expectation of participation, and shall be based upon the parents' strengths, needs, language backgrounds, interests, and family and/or cultural life styles.

(2) Provision shall be made for providing appropriate staff and activities for parents who speak a language other than English.

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